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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,565	07/11/2003	Li Nie	410289	3537

30955 7590 11/15/2006

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

EXAMINER	
WEIER, ANTHONY J	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/617,565	NIE ET AL.	
	Examiner	Art Unit	
	Anthony Weier	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-54* is/are pending in the application.

4a) Of the above claim(s) *17-23,26 and 45-49* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16,24,25,27-44 and 50-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Claims 1-16, 24, 25, 27-44, and 50-54 in the reply filed on 8/29/06 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-5, 7-16, 24, 25, 27-33, 41, 42, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/13521 (Wang et al).

Wang et al discloses a resin formation formed into a pet chew treat wherein said resin formulation may contain animal protein (e.g. egg white) and plant protein (e.g. wheat) wherein same may be used alone or in combination and wherein said protein may be either native or hydrolyzed. Example 7 discloses the use of approximately 50% soy protein isolate (e.g. the grain protein called for in the instant claims) and approximately 10% animal protein or protein derivative of same. Although it is not specified in this example that the animal-derived protein is hydrolyzed, it would have been obvious to one having ordinary skill in the art to have hydrolyzed same (with or without the grain protein) to contribute to or provide better processing flowability (see page 3). As for the particular molecular weight of said protein (instant claims 24 and 25), absent a showing of unexpected results, it would have been further obvious to have

arrived at same as a matter of preference depending on the particular protein moiety available or the cost of same.

Wang et al also discloses the presence of a plasticizer (e.g. glycerol) in an amount of as high as 30%, water as low as 10% (see claim 1), and vegetable powders (as the additional ingredient of claim 41) in an amount of, for example, 2% in Example 7.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al and Axelrod et al (U.S. Patent No. 6159516).

The claims further call for the presence of the protein originating from chicken liver. Such are well known as taught, for example, by Axelrod et al that teaches a molded chewable pet food which contains a liver protein material (col. 8, lines 55-62). It would have been obvious to one having ordinary skill in the art at the time of the invention to have included liver protein in the product of Wang et al as a matter of preference depending on what protein is available, the cost of same, and the nutritional needs of the pet and to have further hydrolyzed same as discussed in the rejection above.

5. Claim 34, 35, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al and Pater et al.

The claims further call for the presence of a lubricator in amounts and type as called for in the instant claims. Pater et al discloses a molded chewable pet food containing lubricants such as fatty acid derivatives and in amounts as high as 5%. It would have been obvious to one having ordinary skill in the art at the time of the

invention to have included same for the art recognized flow enhancing effect attributed to same.

The claims also call for the presence of a mold release agent. Pater et al further teaches incorporating same (calcium stearate; see claim 12). It would have been further obvious to have included same for such art recognized use. As for the amount of same employed, such would have been well within the purview of a skilled artisan, and it would have been further obvious to have arrived at same through routine experimental optimization.

6. Claims 34-36, 38-44 and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al and Jane et al.

The claims further call for the presence and amount of a particular reducing agent. Jane et al teaches an edible molded article (which may be used for pets; col. 7, lines 49-60) prepared from a soybean material wherein a reducing agent such as sodium pyrosulfite (i.e. sodium metabisulfite) is incorporated to aid in the dispersibility of the protein component in preparing the material to be molded (e.g. col. 1, lines 23-37; claim 10). It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed same in the Wang et al product for such reason.

The claims also call for the presence of modified starch of a particular type and amount. Jane et al further teaches the use of a chemical modified starch and a starch sourced from, for example, wheat or corn (e.g. col. 3, lines 54-67) wherein same is used in conjunction with soybean protein material. It would have been obvious to one having ordinary skill in the art at the time of the invention to have incorporated such starch as a

filler to provide "better flowability, better water resistance, and to decrease the cost of same" (col. 3, line 47-53). As for the amount of same to be used, Jane et al teaches the preparation employing 20-30% of same. It would have been further obvious to have employed such amount in Wang et al for such benefit.

The claims further call for a mold release agent and amount of same. Jane et al teaches such an agent (e.g. lubricant; col. 4, lines 31-36), and it would have been further obvious to have incorporated same for such reason. It would have been well within the purview of a skilled artisan to determine the particular amount of agent to be used, and it would have been further obvious to have arrived at such amount as a result effective variable.

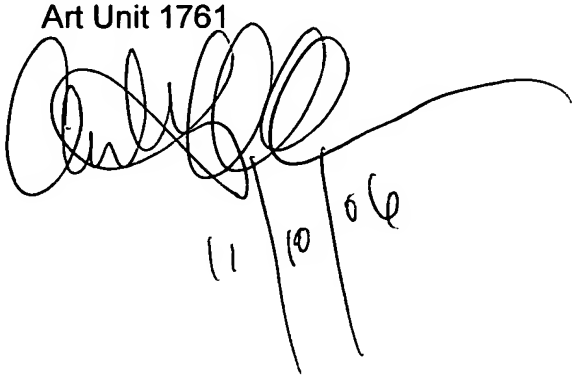
The claims call for the presence of a lubricant such as fatty acid. Jane et al further teaches the use of same (col. 4, lines 31-36), and it would have been further obvious to have employed same for the reasons above: to facilitate the removal of the product from its molding device. It would have been well within the purview of a skilled artisan to determine the particular amount of agent to be used, and it would have been further obvious to have arrived at such amount as a result effective variable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier
Primary Examiner
Art Unit 1761



Anthony Weier
November 10, 2006